

Walter Spoon
119674

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-208169

DATE: October 6, 1982

MATTER OF: Syscon Corporation

DIGEST:

Protest filed with GAO is dismissed where some issues are before court of competent jurisdiction and other issues could have been raised in court and protester/plaintiff has not requested judicial relief pending GAO decision, nor has court expressed interest in GAO decision.

Syscon Corporation (Syscon) protests award of a contract to Technical Studios and Analysis Corporation (TSA) under request for proposals F05604-82-R-0009 issued by Peterson Air Force Base (Air Force), Colorado. Syscon alleges that TSA is not a responsible contractor, that TSA's proposal was technically unacceptable, that TSA's total compensation plan was unacceptable, that award was made on a different basis from that stated in the solicitation, and that TSA has a potential conflict of interest.

Subsequent to filing its protest, Syscon filed suit in the United States District Court for the District of Colorado (Civil Action File No. 82-C-1317), requesting injunctive and declaratory relief. Syscon, in the complaint, raised all the issues above, except it did not argue that TSA's technical proposal is unacceptable or that award was made on a basis different from that stated in the solicitation.

It is the policy of our Office not to decide protests where the material issues are pending before a court of competent jurisdiction unless the court requests, expects or otherwise expresses an interest in our decision. 4 C.F.R. § 21.10 (1982). Syscon has not requested judicial relief pending a decision by our Office, and the district court has not expressed interest in our decision. Therefore, we will not consider the issues raised in court. While two of the issues raised here have not been raised in court, it is clear

that they could have been raised and the permanent relief requested in court is the same as requested here. In such circumstances, we will not consider those issues either. Big Bend Community College;
Central Texas Union Junior College, B-196278,
B-196278.2, April 23, 1980, 80-1 CPD 288.

The protest is dismissed.

for *F. H. Ramsey, Jr.*
Harry R. Van Cleve
Acting General Counsel